facts were not disputed and proved the guilt of the accused. After failing to agree on a verdict the jury were recalled, and charged by the court that "a failure to bring in a verdict in this case can only arise from a wilful and flagrant disregard of the evidence and the law as I have given it to you and a violation of your obligation as jurors." The court added that while it could not tell them in so many words to find the defendant guilty, what it said amounted to that. *Held*, that the conviction be affirmed. *Horning* v. *Dist. of Columbia*, U. S. Sup. Ct., October Term. 1920, No. 77.

It is well settled in the federal courts that the court cannot direct a verdict of guilty in a criminal trial, even though the facts are not in dispute. *United States* v. *Taylor*, 11 Fed. 470; *Blair* v. *U. S.*, 241 Fed. 217. See 2 THOMPSON, TRIALS, 2 ed., § 2149. The presiding judge may, if he chooses, comment on the evidence. *Rucker* v. *Wheeler*, 127 U. S. 85; *Lovejoy* v. *U. S.*, 128 U. S. 171. But the jury must be left free to accept or reject the opinion of the court. *Konda* v. *U. S.*, 166 Fed. 91; *Oppenheim* v. *U. S.*, 241 Fed. 625; *Allison* v. *U. S.* 160 U. S. 203. The comments of the presiding judge in this case were not directed to the facts, which were not in dispute, but to the refusal of the jury to apply the law. The language was clearly coercive in its nature, and the verdict was not the free decision of the jury. *Cf. Parker* v. *State*, 130 Ark. 234, 197 S. W. 283. The decision of the Supreme Court, therefore, reaches the questionable result of allowing a presiding judge indirectly to compel a verdict of guilty. If the decision is justified on the ground that the prisoner was clearly guilty and the error was purely formal, it seems that a directed verdict on similar facts would likewise be merely formal error and should not be ground of reversal. *Cf. People* v. *Neumann*, 85 Mich. 98, 48 N. W. 290; *People* v. *Neal*, 143 Mich. 271, 106 N. W. 857.

WITNESSES — CORROBORATION OF WITNESSES — ACCOMPLICES — TESTIMONY OF WOMEN TRANSPORTED IN VIOLATION OF THE WHITE SLAVE TRAFFIC ACT. — The defendant aided prostitutes in procuring men and transported the party to another state. He was convicted under the White Slave Traffic Act on the testimony of three women and two men, all members of the party. (36 STAT. AT L. 825; 1916 COMP. STAT., §§ 8812–8819.) The trial judge refused charges as to accomplices' testimony. *Held*, that a new trial be granted. *Freed* v. *United States*, 266 Fed. 1012 (D. C.).

The unsatisfactory character of accomplice testimony has long been recognized. See 1 HALE, PLEAS OF THE CROWN, 305; *Rex* v. *Rudd*, 1 Cowp. 331, 336. And judges early began to discourage convictions on the uncorroborated testimony of accomplices. *Rex* v. *Smith*, 1 Leach, 4 ed., 479. This general principle of practice became a rule of law in many states by a statute requiring corroboration. See 3 WIGMORE, EVIDENCE, § 2056. In these states a refusal so to charge the jury is of course error. *State* v. *Odell*, 8 Ore. 31. But in the absence of a statute, as in the principal case, such a charge rests in the discretion of the trial judge. *Commonwealth* v. *Wilson*, 152 Mass. 12, 25 N. E. 16. See *Caminetti* v. *United States*, 242 U. S. 470, 495. *Contra*, *Ray* v. *State*, 1 G. Greene (Ia.), 316. So a refusal of the charge, even as to the men, who were clearly accomplices, was not error. *Cheatham* v. *State*, 67 Miss. 335, 7 So. 204. See *State* v. *Haney*, 2 Dev. & Bat. (N. C.) 390, 397. But even if such a refusal were error, it should not have been held prejudicial in this case. The men's testimony was adequately corroborated by that of the women. And the women's testimony required no corroboration, because they were not accomplices. *Diggs* v. *United States*, 220 Fed. 545; *Hays* v. *United States*, 231 Fed. 106. A member of that class which a statute is designed to protect is no party to the offense though actively concerned in the violation of the statute. *Queen* v. *Tyrrell*, [1894] 1 Q. B. 710. See *United States* v. *Holte*, 236 U. S. 140, 145, 147; 24 HARV. L. REV. 61. This technical principle has been ex-

tended to evade the other technicalities of self-incrimination and corroboration. See *Commonwealth* v. *Willard*, 22 Pick. (Mass.) 476; *Trinkle* v. *State*, 59 Tex. Crim. 257, 127 S. W. 1060. It should not be disregarded for the sake of giving an obviously guilty defendant a new trial.

BOOK REVIEWS

SHIPPERS AND CARRIERS OF INTERSTATE AND INTRASTATE FREIGHT. By Edgar Watkins, LL.B., of the Atlanta Bar. Atlanta, Ga.: The Harrison Company. 1920. 2 vols. pp. 1778.

These two handy, well-printed volumes present in convenient form and from the practical point of view the law of interstate shipping. They include a brief résumé of the case law of this particular phase of interstate commerce, together with a helpful discussion of the procedure before the Interstate Commerce Commission and that applicable in enforcing its orders and findings before the courts; an annotation of the acts regulating interstate commerce as amended by the Transportation Act of 1920; copies of various other federal statutes in so far as they affect interstate carriage of goods; and the conference rulings of the Interstate Commerce Commission.

A great deal of this material can be obtained at nominal expense from the government printing office, or from the commission, but there is value in its collection and correlation by an experienced practitioner in this field for the use of those traffic officials, railway counsel, and practicing lawyers who must have quickly available a survey of the whole subject.

The annotations to the acts regulating commerce cover a deal of space, being spread in the same print as the text over page after page, and appear to be simply copies of a busy lawyer's memoranda of citations, each introduced by a word or two of purported explanation, apparently without effort at generalization under common note headings.

The anti-trust acts are set forth, discussed, and annotated in a chapter entitled, "Trust and other Combinations in Restraint of Trade." The other federal statutes relating to interstate commerce seem to have been carefully selected and embodied, in whole or in part, in the form of appendices, including the Federal Control Act, Adamson Eight-Hour Law, Federal Trade Commission Act, United States Shipping Board Act, National Motor Vehicle Theft Act, and the National Prohibition Act. Unfortunately the citations of these acts in the United States Statutes at Large are not given.

The résumé of the case law of the subject is especially valuable in that it covers the Interstate Commerce Commission's decisions as well as those of the federal and, in a limited way, the state courts. Although the review of the cases seems exhaustive (the table of cases covers one hundred and seventeen pages) one, even in a hasty reading, notes the omission of an important decision here and there; for example, the case of *Arthur* v. *Texas and Pacific Railway*, 204 U. S. 505 (1907) relating to "Accessorial Services," and, under the discussion of the Federal Employers Liability Act, *Southern Pacific Railway* v. *Jensen*, 244 U. S. 205 (1917) defining the limits of said act and the meaning of the expression therein "Engaged in interstate commerce."

There is a good table of contents setting forth the subject matter of the eleven chapters in the words of the section headings, and a detailed general index.

The title of the work is somewhat misleading for, as the author states in his preface, the law relating to intrastate freight is discussed only as it bears, directly or indirectly, upon the principal subject, — interstate transportation